

**Draft Summary of the Environmental Work Group Meeting
Oroville Facilities Relicensing (FERC Project No. 2100)
August 22, 2001**

The Department of Water Resources (DWR) hosted the Environmental Work Group meeting on August 22, 2001 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary of the discussion for information purposes to interested parties who could not attend the meeting. The following are attachments to this summary:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Revised Issue Sheets – August 22, 2001
Attachment 5	Geographic Scope

Introduction

Attendees were welcomed to the Environmental Work Group meeting and objectives were discussed. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Flip chart notes taken during the meeting are included as Attachment 3.

Action Items – July 25, 2001 Environmental Work Group Meeting

A summary of the July 25, 2001 Environmental Work Group meeting is posted on the relicensing web site. The Facilitator reviewed the status of action items from that meeting as follows:

Action Item #E35:	Review Engineering & Operations and Environmental Coordination proposal and provide comments to DWR.
Status:	The draft coordination document was distributed at both the last Environmental Work Group and the Engineering and Operations Work Group meetings and participants were asked to provide comments to DWR. Steve Ford of DWR reported that no comments had been received on the document to date, but that participants may continue to provide comments. He reminded the group that the coordination document was designed to address overlapping study responsibilities between the Environmental and Engineering & Operations Work Groups. He added that a joint task force to address potential overlap and information sharing between work groups would be formed once both work groups had finished Issue Sheet development. The information sharing strategy developed by that task force would be critical to the relicensing modeling effort.
Action Item #E36:	Provide "Issue Addressed by Issue Statement" section for each Issue Sheet.
Status:	Completed.
Action Item #E37:	Develop statement related to the disposition of jurisdictional versus non-jurisdictional issues.
Status:	Steve Ford reported that DWR has considered the request for clarification and has determined that the Process Protocols adequately describe the potential disposition of issues that may be considered non-jurisdictional. Steve provided the Environmental Work Group with a copy of Section 1.E. of the Process Protocols, which states:

"Purpose of Settlement Agreement

*The Participants in the ALP intend to reach a written settlement agreement that:
(1) will facilitate development of a new license application and will serve as a basis for the new license and regulatory approval(s) necessary for FERC's issuance of that new license,*

*(2) will state the mutually acceptable resolution of Participants' disputes that arose in connection with the original license for the Oroville Facilities, and
(3) may include on a case-by-case basis, mutually acceptable resolution of Participants' disputes that are related to the future operations of the Oroville Facilities but that are or may be considered outside of FERC's jurisdiction. The primary purpose of the settlement agreement is (1)."*

Steve asked participants to read item (3), which allows for the introduction of non-FERC issues into the settlement agreement process.

The full text of the Process Protocols is available on the relicensing web site.

Woody Elliot of DPR asked if there was a FERC document that clearly lists FERC jurisdictional versus non-jurisdictional issues. Wayne Dyok of the consulting team responded that there is no list produced by FERC but the Work Groups were attempting to define the boundaries of what should be considered FERC jurisdictional issues for this project during the development of study plans. Mike Morse of the US Fish and Wildlife Service added that the FERC Relicensing Handbook could be used as a reference for determining what can be considered jurisdictional issues and also pointed to recent relicensing history. There are also ESA/CESA considerations apart from FERC jurisdictional/non-jurisdictional issues to address. Participants agreed that the individual Work Groups would have a significant impact on the scope of FERC related issues through the development of specific study plans. Participants briefly discussed the development of study plans and establishment of baseline conditions as current operations for the purposes of FERC.

Steve Ford informed the Environmental Work Group that DWR staff and the consulting team were meeting with FERC staff today to discuss the status of Issue Statements included in draft Scoping Document 1 (SD1). FERC staff members have reviewed the Issue Statements in SD1 and are concerned that they may be too broad. FERC has called this meeting to discuss the methodology being used by DWR and the consulting team for filtering issue statements to FERC related issues. FERC has asked if DWR felt the Work Groups would consider re-visiting the Issue Statements in SD1 to begin the filtering process prior to the release of the document for public review. The Environmental Work Group discussed the request and determined that participants were committed to the current process. The Environmental Work Group was concerned that if issues were filtered at this point, the community might feel that the applicant was not considering their input. The Environmental Work Group agreed that the first significant discussion of nexus to the project should occur while developing the study plans.

Several participants expressed concern that there has been a distillation of multiple tangential issues since the beginning of the relicensing effort, and early contributions from the community may have been diluted. One participant asked if once an issue was determined to be non-jurisdictional, would it be possible to identify who the responsible party is for non-FERC related issues? Sharon Stohrer of the SWRCB suggested that filtering should include a process to record issues that are distilled out so that they will not be lost. She suggested that other responsible agencies such as DPR, DFG and the SWC identify representatives that can explain what happens to issues that are not related to FERC issue areas. Providing such a record, would maintain the history of Issue Sheet development, and help track issues that are not addressed in a study plan.

Steve Edmondson of NMFS added that FERC, through the Interagency Task Force, has outlined a process for focusing issues. He explained the three steps to determining whether an issue is FERC related. The first step identifies resource goals and management objectives. The second step identifies resource impacts associated with project operations. The third step identifies what additional

information you need to be able to assign mitigation to the impacts identified in Step 2. Steve Ford added that issues not studied might become additional mitigation or potential bargaining tools when developing settlement agreements.

The Environmental Work Group agreed to leave the Issue Statements in their current form. DWR staff and the consulting team agreed to communicate this to FERC staff during their meeting.

Later in the Environmental Work Group meeting, Wayne Dyok of the consulting team provided a brief update on the meeting with FERC staff. Wayne stated that FERC staff was satisfied with the approach that the relicensing process was taking to sort issues and determine which were FERC related. FERC staff is still concerned that some of the Issue Statements are too broad, but recognizes that the Study Plan development process will focus the intent of the Issue Statements.

Action Item #E38: Prepare language related to 'Scope' for Environmental Work Group review.
Status: Wayne Dyok reported that DWR approved draft language of 'Geographic Scope' and distributed it to the Environmental Work Group. Participants were asked to review the language and provide additional comments to the Environmental Work Group at their next meeting.

Carryover Action Item

Action Item #E31: Presentation and discussion of ESA Section 7.
Status: A presentation of ESA Section 7 will be made at the next Environmental Work Group meeting.

Action Item #E32: Provide Work Group with detailed outline of study plan for review and comment. Comments on outline are due to DWR within 5 days of receipt.
Status: Steve Ford reported that Resource Area Managers are developing a single outline that would apply to all the Work Groups. The outline will be ready for review by the Environmental Work Group at their next meeting.

Action Item #E33: DWR staff to prepare revised Issue Sheets for Task Force review and comment.
Status: Ongoing. The second set of Issue Sheets is ready for review by the Environmental Work Group at this meeting. The Task Force is preparing the third set of Issue Sheets for Environmental Work Group review at their next meeting.

California Waterfowl Association Presentation

Professor Don Anthrop of San Jose State University provided the Environmental Work Group with an overview of duck nesting habitat development around the Thermalito Afterbay. This included a history of brood pond development, a description of the major challenges in creating and sustaining brood ponds at the Afterbay, and an assessment of how project operations impact the successful breeding of summer waterfowl at the Afterbay.

Brood pond development began in 1980 in response to a lack of summer nesting habitat at the Sacramento National Wildlife Refuge. Several groups (duck hunters, the Audubon Society, etc.) recognized that if adequate water could be delivered to the Refuge in the summer, birds would nest there. Researchers observed mallard eggs along the shore of Thermalito Afterbay indicating that birds would also nest there. However, DWR operations resulted in fluctuating Afterbay water levels making successful nesting difficult. Stable brood ponds were developed on lands adjacent to the Afterbay in the late 1980's to mitigate the impact of water level fluctuations.

Dr. Anthrop described the development of brood ponds and the conversion of upland grazing land, including the removal of grazed vegetation and replacement with a University of California Extension grass mix suitable for creating successful nesting environments. Nesting mallards require tall, green grass and damp ground so water levels at the brood ponds need to be maintained to avoid flooding nests. Dr Anthrop reported extremely high-density rates for nests at the five brood ponds on the Afterbay; higher than densities reported in the productive Canadian

plains. DWR has cooperated with both constructing and maintaining the environment at the brood ponds but closer coordination with project operations is desired to manage fluctuating water supply.

Issue Sheet Development

The Environmental Work Group reviewed the second set of revised draft Issue Sheets developed by the Task Force plus five issues deferred from the previous Environmental Work Group meeting.

Before reviewing each revised Issue Sheet, Steve Ford briefly described the elements of the Issue Sheets in the context of the goals of this meeting. Steve Ford reminded participants that the Issue Sheets are working tools to help the Environmental Work Group fashion study plans, and that they did not require much wordsmithing. He added that suggested revisions to Issue Statements would be handled at the Plenary Group level as part of the review of Scoping Document 1, and therefore did not need to be addressed further by the Environmental Work Group. He described the Resource Goals as an individual's statement of what they wanted from the resource. He observed that Resource Goals usually fell into two categories: the first, minimize adverse project effects, the second, enhancement beyond mitigation. Steve asked participants to refrain from wordsmithing others' Resource Goals and instead provide new Resource Goals to reflect their perspective. He added that existing information additions could be handled outside of this meeting.

Steve suggested that the Geographic Scope would be the focus of this meeting's conversations, and would provide the basis for identifying issues for further study. The Geographic Scope provides the limits of the study area and therefore the study plan. Global draft language for the Geographic Scope has been prepared by the consulting team and was distributed to the Environmental Work Group (Attachment 5). He added that the draft language might be modified to fit the needs of a particular Issue Sheet. Finally, Steve concluded with "Issues Addressed", adding that discussions in this area may begin the first level of screening to determine which issues are addressed through the study plans, and which are held aside as potential mitigation, or inclusion in a settlement agreement.

Steve outlined the study plan development schedule and reminded the participants that draft study plans should be completed by December, with final study plans approved by the Plenary Group in February 2002. Steve requested that the Environmental Work Group focus on Scope and Information Needs when reviewing the Issue Sheets at this meeting. He asked that comments on other sections of the Issue Sheets be sent to him prior to September 5.

The Environmental Work Group reviewed, revised and completed Issue Sheets F3, T10, T2, G4, G5, W5, W6, W17, W13, T3, T6, T8, T11, and F6. The revised Issue Sheets are appended to this summary as Attachment 4. The following paragraphs summarize additional comments or discussions beyond the revisions reflected in Attachment 4.

F3

The Environmental Work Group discussed the need to assess the impacts of Feather River flows on downstream environmental issues. For example, how much does the Feather River contribute to the volume of the Sacramento River in Sacramento? Jerry Boles of DWR provided the Environmental Work Group with a graphic showing flows in the Sacramento River and its tributaries (including the Feather River) for the months of February and August in both wet and dry years. The Work Group concluded that it would be possible to determine the contribution made by the Feather River to the San Francisco Bay Delta, and the potential effects from different operational scenarios at the Oroville Facilities on downstream environments. The Environmental Work Group agreed that this information would be useful in setting boundaries for the Geographic Scope of each Issue Sheet.

The Environmental Work Group compared the language provided in the Geographic Scope document to the Issue Statement. They recognize that the language needs to be inclusive; yet flexible enough to allow for changes as the individual study plans are developed. Sharon Stohrer of the SWRCB suggested a change to the language provided by the consultant to allow for both potential reduction, and expansion of the scope. DWR agreed to redraft the scope language to reflect Sharon's suggestion and re-distribute it to the Environmental Work Group. One participant suggested that the revised language be shared with the Resource Area Managers for use in the other Work Groups. Steve responded that the RAMs have seen the language and are considering it for use in other Work Groups.

T10

Mike Taylor of the USFS suggested that as written, the scope would too narrowly focus studies within the project boundaries. An assessment of upland habitat would necessitate investigations of impacts of land outside the project boundary but within the range of select species that may use project lands for part of their life cycle. For example, California red-legged frogs breed in the wet areas near the reservoir but will migrate out of the project boundary at certain times of the year. Steve Ford responded that this assessment is valid if you are trying to get an overall view of a particular species, however when evaluating project impacts, you may not require such an all-encompassing study. Steve suggested that this evaluation is more applicable to a cumulative impact analysis. The group agreed to add language related to an appropriate buffer zone.

T2

Mike Morse observed that a more complete description of the affected area would be appropriate here and developing a list of endangered species impacted by project operations would also be good. Steve Ford suggested that the existing scope language was adequate to begin study plan development, and that additional language could be developed to satisfy Mike's concerns. Steve Edmondson offered to prepare language that would present the regulatory basis under NEPA/CEQA and ESA for the study scope being requested by FWS and NMFS and add that to the discussion on ESA Section 7 planned for the next Environmental Work Group meeting.

G6

This Issue Sheet appeared on the agenda but was not distributed to the work group for discussion. Steve Ford suggested that this Issue Sheet be addressed in an assessment of cumulative impacts and that DWR and the consultants want to discuss this with other participants to determine if this is the correct way to handle this. Mike Morse observed that it might be difficult to identify a study, or cumulative impact, without some basic information. Steve Ford added that the agencies should be able to comment on what the scope of the analysis should be. This Issue Sheet will be discussed along with the other cumulative impacts issue sheets at a later meeting.

W17

Mike Morse informed the Environmental Work Group that there was some uncertainty as to whether the impacts associated with this Issue Statement are from the project or from historic mining operations. He stated that it was important that the original issues be addressed in this Issue Sheet. He added that the study from this Issue Sheet should compare groundwater levels, the movement of groundwater and the impacts on species. Mike stated that some groups (outside the Task Forces) might be getting together to discuss specific technical issues. He suggested that special sub-groups (DWR and the agencies) be formed to determine study needs (ESA, groundwater, hyporheic, etc). Steve Ford responded that he would prefer DWR staff develop draft study plans based on conversations with technical experts. This approach avoids complex meeting notification requirements that could be required under the relicensing communication protocols. The task force and the Environmental Work Group would continue to review the drafts.

One participant suggested that DWR post their intention to use technical experts as described above, rather than post meetings. The public could be provided a contact phone number to call if

they have questions. DWR could also post regular updates on the ALP in the local papers and the project newsletter.

T6

Steve Edmondson asked if this Issue Sheet would eventually lead to the development of a Habitat Conservation Plan. Steve Ford responded that DWR had not planned to develop a HCP. Instead, the goal is to work toward the development of a coordinated plan that will provide a framework for cooperative management, not necessarily how responsibilities would be allocated. The plan would allow the agencies to better implement their existing mandates in a cooperative way. This cooperative management approach would include informing Butte County of agency activities.

T8

The Environmental Work Group discussed coordination with the Land Use, Land Management and Aesthetics Work Group on this Issue Sheet. Steve Ford offered to talk to the RAM for the Land Use, Land Management and Aesthetics Work Group and determine coordination and information needs from the Environmental Work Group on this issue.

Issue Sheets W1, W2, W3, W9, W10, F7 and F9 were not reviewed at this meeting, and are included in Attachment 4. Participants agreed to review these Issues Sheets and provide comments to Steve Ford prior to the next Environmental Work Group meeting. The Environmental Work Group at their September 26th Work Group meeting will review Issue Sheets revised by the Issue Sheet Development Task Force at their September 11th and 18th meetings.

Next Meetings

The Environmental Work Group agreed to meet on:

Date: September 26, 2001
Time: 9:30 a.m. to 3:00 p.m.
Location: To be determined.

The Environmental Task Force agreed to meet on:

Date: September 11, 2001 (Terrestrial a.m. – Fisheries p.m.)
Time: 9:30 a.m. to 3:00 p.m.
Location: Oroville Field Division

Date: September 18, 2001 (Water Quality)
Time: 9:30 a.m. to 3:00 p.m.
Location: US Forest Service Office

Agreements Made

1. The Environmental Work Group agreed to convene the Issue Sheet Task Forces on September 11, and 18, 2001 to revise draft Issue Sheets. The September 11 meeting will focus on terrestrial and fisheries issues, the September 18 meeting will focus on Water Quality issues.
2. The Environmental Work Group agreed to review the remaining Issue Sheets from this meeting and provide comments to DWR prior to the next meeting.

Action Items

The following list of action items identified by the Environmental Work Group includes a description of the action, the participant responsible for the action, and due date.

Action Item #E39: Revise Geographic Scope to allow for expanding range of options regarding scope if warranted.
Responsible: DWR/Consulting Team
Due Date: September 7, 2001

Action Item #E40: Provide regulatory basis for study scope for NMFS and USFWS.
Responsible: NMFS
Due Date: September 26, 2001

Action Item #E41: Notice on-going communications with small technical groups to assist with development of study plans and provide updates of ALP in appropriate periodicals (project newsletter, local newspaper).
Responsible: DWR staff
Due Date: September 26, 2001

Carryover Action Items

Action Item #E31: Presentation and discussion of ESA Section 7.
Responsible: USFWS/NMFS
Due Date: September 26, 2001

Action Item #E32: Provide the Environmental Work Group a detailed outline of a study plan for review and comment. Comments on outline are due to DWR within 5 days of receipt.
Responsible: DWR Staff and consultants
Due Date: September 26, 2001

Action Item #E33: DWR staff to prepare revised Issue Sheets for Issue Sheet Development Task Force review and comment.
Responsible: DWR Staff and consultants
Due Date: On-going